

Date: February 21, 2002

Refer to: MCDA Board of Commissioners

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Approved by Chuck Lutz, MCDA Interim Executive Director

Subject: Approval of MCDA Public Financial Assistance Fee Policy and Amendment to Minneapolis Tax Increment Policy

Previous Directives: The Minneapolis Tax Increment Policy approved by the City Council and the MCDA Board of Commissioners on October 13, 2000 requires developers requesting tax increment financing assistance to pay an application fee.

Neighborhood Group Notification: On January 31, 2002, neighborhood groups were notified of the MCDA's intent to seek approval of the Public Financial Assistance Fee Policy and amendment to the Tax Increment Policy.

Consistency with *Building a City That Works*: Consistent with Goal 6, Manage existing financial resources effectively and identify new sources of revenue to carry out our mission.

Comprehensive Plan Compliance: Not applicable.

Zoning Code Compliance: Not applicable.

Impact on MCDA Budget: (Check those that apply)

- ☒ No financial impact
☐ Action requires an appropriation increase to the MCDA Budget
☐ Action provides increased revenue for appropriation increase
☐ Action requires use of contingency or reserves
☐ Other financial impact (Explain):

Living Wage / Business Subsidy: Not applicable.

Job Linkage: Not applicable.

Affirmative Action Compliance: Not applicable.

RECOMMENDATION:

City Council Recommendation: 1) approve the amended version of the Minneapolis Tax Increment Policy, dated February 21, 2002, and refer it to the Board of Commissioners for approval; and 2) refer the Public Financial Assistance Fee Policy, dated February 21, 2002 to the Board of Commissioners for approval.

MCDA Board Recommendation: 1) approve the amended version of the Minneapolis Tax Increment Policy, dated February 21, 2002; and 2) approve the Public Financial Assistance Fee Policy, dated February 21, 2002.

Background/Supporting Information

On November 1, 2000, the MCDA began the practice of collecting application fees from developers requesting tax increment financing assistance. The Minneapolis Tax Increment Policy approved by the City Council on October 13, 2000 provides:

Developers requesting tax increment financing will be charged a non-refundable application fee. The amount of the fee will be based on the principal amount of tax increment requested as shown below:

<u>Tax Increment Principal</u>	<u>Application Fee*</u>
\$ 1 - \$ 1,999,999	\$ 5,000
\$ 2,000,000 - \$ 9,999,999	10,000
\$ 10,000,000 +	15,000 to 50,000

*Application fee is based on MCDA estimates of the necessary degree of project analysis.

The imposition of application fees for tax increment and other forms of public financial assistance has become common practice among many Minnesota cities, and developers willingly paid the MCDA's fees during 2001. Fees ranging from \$5,000 to \$15,000 were collected in conjunction with eight applications for public financial assistance during 2001, totaling \$85,000.

Public Financial Assistance Fee Policy

Staff recommends that the practice of collecting developer application fees be expanded to include requests for tax abatement assistance and Leveraged Investment Fund loans. A policy for establishing and collecting public financial assistance fees is attached to this report (Attachment 1). The policy will enable the MCDA to recover public costs associated with review and analysis of development proposals.

Based on the first year's experience with the tax increment application fee policy, staff also recommends modifications to the method of determining and collecting fees. In lieu of a fixed scale, the modified policy calls for the collection of an initial \$1,000 application fee at the time that the MCDA receives a formal *Application for Public Financial Assistance*, and a subsequent project analysis fee to be established at the time that the Board of Commissioners authorizes staff to proceed with analysis of a proposal.

The nonrefundable project analysis fee will be based on a staff team's estimate of the cost of staff time and other expenses up to the point when the request for public financial assistance is either approved or denied by the Board of Commissioners and/or the City Council. The estimated cost shall include, but not be limited to, staff activities in the areas of project coordination, financial analysis, legal review, document preparation, engineering, real estate and administration, and other expenses such as appraisals, market feasibility studies, environmental assessments, consulting fees, condemnation costs, and others. Staff believes that setting the final fee after some preliminary analysis will lead to the most realistic determination of the cost of review and analysis.

Amendment to the Minneapolis Tax Increment Policy

Certain amendments to the Minneapolis Tax Increment Policy, approved by the City Council and the MCDA Board on October 13, 2000, are necessary to update the policy and to make it consistent with the Public Financial Assistance Fee Policy. These amendments are as follows:

Section I. Purpose of Policy

- References to previous versions of the Policy and effective date of Policy are updated.
- Reference to a separate document, *Procedure for Analyzing Applications for Tax Increment Financing, Tax Abatement and Leveraged Investment Fund Assistance*, is updated.

Section II. MCDA Development Objectives (No Change)

Section III. General Guidelines in the Use of Tax Increment Financing

- Outdated reference to required local contributions to offset loss of LGA/HACA aid is deleted.
- Description of tax increment application fee is deleted (Public Financial Assistance Fee Policy describes the fees associated with applications for tax increment financing assistance).

Section IV. Economic Analysis and Risk Assessment Process (No Change)

Section V. Evaluation Criteria

- Reference to *Procedure for Analyzing Applications for Tax Increment Financing, Tax Abatement and Leveraged Investment Fund Assistance* is updated.
- Outdated reference to required local contributions to offset loss of LGA/HACA aid is deleted.

A copy of the amended Tax Increment Policy (Attachment 2) as well as a version that highlights the amendments (Attachment 3) are attached to this report.

Procedure for Analyzing Applications for Tax Increment Financing, Tax Abatement and Leveraged Investment Fund Assistance

The attached *Procedure for Analyzing Applications for Tax Increment Financing, Tax Abatement and Leveraged Investment Fund Assistance* (Attachment 4), originally established in September 2000, has been updated to extend the procedure to requests for tax abatement and Leveraged Investment Fund assistance, and to reflect the changes in the Tax Increment Policy and the new Public Financial Assistance Fee Policy. The *Procedure* is attached for information purposes; no City Council or Board of Commissioners action is required.

Neighborhood Group Notification

On January 31, 2002, neighborhood groups were notified of the MCDA's intent to seek approval of the Public Financial Assistance Fee Policy and the amendment to the Minneapolis Tax Increment Policy. As of the date of preparation of this report, the MCDA has not received any comments from neighborhood groups. Comments received after the preparation of this written report will be presented at the February 21 Community Development Committee meeting.



February 21, 2002

Minneapolis Community Development Agency
Public Financial Assistance Fee Policy

I. Purpose of Policy

The Minneapolis Community Development Agency (MCDA) incurs costs in the review, analysis and evaluation of development proposals and other requests for public financial assistance. Such costs are incurred regardless of whether the requested assistance is approved. The MCDA seeks to recover public costs associated with this review and analysis. Public costs may include staff time as well as out-of-pocket expenses such as appraisals, market studies, environmental assessments, consulting fees, condemnation costs, and others.

Applications for public financial assistance received on or after March 15, 2002 are subject to this policy.

II. Applicability

Requests for the following forms of financial assistance are subject to public financial assistance fees pursuant to this policy:

- 1) tax increment financing;
- 2) tax abatement; and
- 3) Leveraged Investment Fund loans.

Other types of financial assistance may be subject to administrative fees pursuant to separate fee policies.

III. Types of Fees

1) Application Fee

An application fee of \$1,000 must be paid by the applicant at the time that a formal *Application for Public Financial Assistance* is submitted to the MCDA. This nonrefundable fee will help pay for MCDA staff time necessary to review the application and provide a preliminary analysis as to the feasibility of the project and the appropriateness of the requested financial assistance.

A staff team will be assigned to review and analyze the application. The team will normally consist of a project coordinator, a development finance analyst and an attorney, but may include other MCDA and City of Minneapolis staff as well.

2) Project Analysis Fee

If the staff team finds that (a) the application is complete, (b) a preliminary review and analysis indicates the project may be feasible, and (c) some level of public financial assistance may be justified, then the staff team will determine the amount of the project analysis fee and will recommend that the Executive Director seek Project Analysis Authorization (PAA) from the Board of Commissioners. The Report to the Commissioners requesting PAA will identify the amount of the project analysis fee.

The nonrefundable project analysis fee will be based on the estimated cost of staff time and other expenses up to the point when the request for public financial assistance is either approved or denied by the Board and/or City Council. The estimated cost shall include, but not be limited to, staff activities in the areas of project coordination, financial analysis, legal review, document preparation, engineering, real estate and administration, and other expenses such as appraisals, market feasibility studies, environmental assessments, consulting fees, condemnation costs, and others.

If PAA is approved by the Board, the applicant must immediately pay the project analysis fee in order for staff analysis of the proposal to continue.

If at any time reasonable out-of-pocket expenses exceed the amount collected from the applicant for such expenses, the difference shall immediately be paid by the applicant as an additional project analysis fee.

Acceptance by the MCDA of the application or project analysis fee does not signify a commitment on the part of the MCDA or the City to approve any requested public assistance.

February 21, 2002

Minneapolis Tax Increment Policy

I. Purpose of Policy

This Tax Increment Policy has been prepared by the Minneapolis Community Development Agency (MCDA) and the City Finance Department and approved by the MCDA Board of Commissioners and the Minneapolis City Council for the following purposes:

- to guide MCDA staff in forming recommendations regarding the use of tax increment financing and negotiating contract terms with developers;
- to guide City Finance Department staff in reviewing and commenting on the use of tax increment financing;
- to provide a framework within which the City Council and Mayor can evaluate and compare proposed uses of tax increment financing; and
- to inform the public of the MCDA and City's positions on the use of tax increment financing and the process through which decisions regarding the use of the tool are made.

This policy supersedes the Tax Increment Policy approved by the Minneapolis City Council and the MCDA Board of Commissioners on October 13, 2002 and earlier versions of said policy. This policy is effective as of March 15, 2002.

A separate document, *Procedure for Analyzing Applications for Tax Increment Financing, Tax Abatement and Leveraged Investment Fund Assistance*, outlines the administrative procedures to be followed in the review, analysis and approval of requests for tax increment financing and certain other types of assistance.

II. MCDA Development Objectives

The MCDA uses tax increment financing to accomplish these major objectives:

- A. Expand the Minneapolis economy to create more living-wage jobs, with an emphasis on providing job opportunities for the unemployed and underemployed.
- B. Attract and expand new and existing services, developments and employers in order to position Minneapolis and the region to compete in the economy of the 21st century.
- C. Increase the city's property tax base and maintain its diversity.

- D. Clean contaminated land to provide sites for uses that achieve MCDA and City redevelopment objectives.
- E. Provide an array of housing choices that meet the needs of current residents and attract new residents to the city, with an emphasis on providing affordable housing.
- F. Eliminate blighting influences throughout the city.
- G. Support neighborhood retail services, commercial corridors and employment hubs.
- H. Support redevelopment efforts that enhance and preserve unique urban features and amenities, including downtown, the riverfront and historic structures.

III. General Guidelines in the Use of Tax Increment Financing

- A. The MCDA and the City of Minneapolis will comply with all requirements of the Minnesota Tax Increment Financing Act, as amended. The MCDA will undertake a rigorous analysis to ensure that the proposed project satisfies the “but for” test embodied within the Tax Increment Financing Act.
- B. The MCDA and the City of Minneapolis will use tax increment financing only when a clearly identified city development objective is served and only to the degree necessary to accomplish that development objective .
- C. Tax increment financing will only be used in cases where the City has the financial capacity to provide the needed public assistance, the Council deems it fiscally prudent to provide such assistance and the developer can clearly demonstrate that the development will be able to meet its financial and public purpose commitments.
- D. The MCDA and the City of Minneapolis will recapture the public subsidy to the maximum extent feasible after allowing the developer a reasonable return.
- E. Alternatives, such as “pay as you go” financing and reimbursing front-end public redevelopment costs with tax increment revenues, are preferable to bond financing and are to be considered and used when appropriate.
- F. Only those public improvements and public redevelopment costs directly associated with or needed to service the proposed development plan or project should be financed through tax increment.
- G. The MCDA will analyze each potential new tax increment financing district and recommend whether it should be included in or excluded from the fiscal disparity contribution. The impact of the fiscal disparity election on the City’s general tax base will be analyzed using the methodology prescribed by the Minnesota Department of Revenue and will be reported to the City Council in a manner

understandable to the general public prior to approval of the proposed use of tax increment financing.

- H. As part of the annual budget process, the MCDA will identify tax increment revenues deemed to be excess tax increment and will make related recommendations for decertification of parcels or districts and report on the total value of captured tax capacity expressed in both dollars and as a percentage of total tax capacity.
- I. Tax Increment Forecast – In order to provide context for City Council decisions on public investment for development, the MCDA will semi-annually provide a verbal report to the Committee of the Whole on the status of current, pending and known potential projects. If possible these presentations should occur at the first meeting in January and July of each year.

IV. Economic Analysis and Risk Assessment Process

- A. Proposed uses of tax increment financing will be subject to rigorous economic analysis and risk assessment. MCDA staff will be responsible for overseeing the analysis and assessment process. Consultants will be used to complete needed analysis and assessment as appropriate. City Finance Department staff will participate in the analysis of proposed uses of tax increment financing.
- B. The analysis and assessment of all proposed uses of tax increment financing will address the following questions as part of the standard format for reports to the MCDA Board of Commissioners and the City Council:
 - What is the public purpose of the financial assistance to the project?
 - Why is there a financial need for public investment and/or subsidy?
 - What is the total cost of the project?
 - What is the appropriate level of public participation?
 - What are the risks associated with the project?
 - What are the alternative plans for managing the risk?
 - How does the proposed project finance plan compare with previously approved comparable projects?
 - What is the project's impact on other publicly financed projects?
- C. The results of the economic analysis and risk assessment will be presented to the City Council at the time of the request for approval of the proposed use of tax increment financing. The report will identify any elements of the proposed project that are not in conformance with this Tax Increment Policy.
- D. Projects with an anticipated term of increment collection greater than 15 years or projects with tax increment principal in excess of \$10 million will be subject to a more extensive analysis, including appropriate market analysis and review by City Finance Department staff.

- E. This process for economic analysis and risk assessment does not replace the *Administrative Procedure for Review of Development Proposals by an Interdisciplinary Proposal Review Team* approved by the City Council on February 9, 1996, which remains in effect.

V. Evaluation Criteria

The following items will be taken into consideration in the evaluation of any development proposal requesting tax increment assistance.

- A. Need For Public Assistance – In all cases, it is required that the need for public assistance be demonstrated and documented by the developer to the satisfaction of the MCDA and the City Finance Department. All such documentation, including development budgets, cash flow projections, market studies and other financial and market information, must be submitted by the developer in accordance with the MCDA's *Procedure for Analyzing Applications for Tax Increment Financing, Tax Abatement and Leveraged Investment Fund Assistance*. If the request is based on financial gap considerations, the developer will demonstrate the profitability and feasibility of the project (i.e. gross profit, cash flow before taxes, cash-on-cash return, IRR, etc.), both with and without public assistance.
- B. Amount of Public Assistance versus Private Investment - All development proposals should seek to maximize the amount of private investment per dollar of public assistance. Public assistance as a percentage of total development costs will be determined for each project (or discrete portion of a project receiving a subsidy) and compared to other development projects or subprojects of similar scope and magnitude whenever possible.
- C. Term of Public Assistance –The term of the public assistance shall be kept to a minimum. The proposed term of any public assistance shall be fully documented and explained to the MCDA Board of Commissioners and the Minneapolis City Council.
- D. Development Benefits and Costs – The direct and indirect benefits of the development proposal shall be determined and quantified to the degree possible. Benefits shall include, but are not limited to, employment benefits (number of jobs retained or created, percentage of jobs held by City residents, wage and salary information, etc.), tax base benefits (estimated market value of new development, new property taxes generated, etc.), housing benefits (number of new rental or ownership units, number of affordable units, etc.), and other benefits relating to transportation, parking, blight remediation, environmental cleanup and historic preservation.

Costs of the development proposal to both the MCDA and the City shall also be identified to the degree possible. Such costs shall include, but are not limited to, additional required infrastructure and the impact on the City's General Fund of the fiscal disparity contribution election if tax increment financing is used. The timeframe used for these cost estimates should equal the timeframe of the project

finance plan and should separately identify any projected recapture of public subsidy.

- E. Recapture of Public Subsidy – It is the City’s goal to recapture all, or a portion, of the public subsidy provided to the extent practical. Methods of recapture shall include, but are not limited to, long-term ground leases, subordinated loans, sale and/or refinancing provisions, and equity participation.



February 21, 2002

Procedure for Analyzing Applications for Tax Increment Financing,
Tax Abatement and Leveraged Investment Fund Assistance

I. Receipt of Application

Minneapolis Community Development Agency (MCDA) staff review of applications for tax increment financing, tax abatement or Leveraged Investment Fund assistance is triggered by the Executive Director's receipt of a formal written *Application for Public Financial Assistance*, accompanied by a \$1,000 application fee. (It is recognized that preliminary discussions between staff and developers will likely occur prior to submission and receipt of a formal application.) The Executive Director forwards the application to the appropriate division director(s) and department manager(s).

It is understood that the information presented by the developer at this point in the process is preliminary, and may change as planning, review and negotiations progress.

Upon receipt of an *Application for Public Financial Assistance*, the MCDA will take the following actions:

1. Department manager assigns application to a project coordinator and requests assignment of at least a development finance analyst and an attorney (the "staff team"). (Staff team may also include other MCDA or City staff, as appropriate.)
2. Manager of Project Planning & Finance department sends notification of receipt of application to City Finance Department, City Planning Department, Neighborhood Revitalization Program (NRP), affected City Council Member and affected neighborhood group(s).
3. Project coordinator arranges initial meeting with developer for presentation of application.
4. Project coordinator advises developer to contact City Council Member, explains that process requirements include neighborhood and City Planning Department review of application, and explains the other likely development process steps.
5. Staff team undertakes initial review and preliminary analysis of application.

II. Preliminary Analysis

MCDA staff will conduct a preliminary analysis of the application prior to seeking direction from the Board of Commissioners regarding further consideration of the application. The following actions will be undertaken:

1. Conduct staff team coordination meeting.
2. Conduct preliminary assessment of application's consistency with City goals and priorities, The Minneapolis Plan and other applicable land use plans, zoning code, MCDA strategic plan, applicable Development Objectives, redevelopment plans and NRP plans.
3. Identify public purpose to be served.
4. Conduct rudimentary sources and uses analysis.
5. Conduct preliminary analysis of financial feasibility and appropriate level of public participation.
6. Evaluate developer's financial capacity and experience.
7. Determine need for consultant(s).
8. Identify any significant factors that weigh for or against the application.
9. Determine whether to recommend Executive Director bring application to Board of Commissioners for Project Analysis Authorization.
10. Notify City Finance Department, City Planning Department, NRP and Council Member of results of preliminary analysis and decision regarding whether to seek Project Analysis Authorization.
11. Determine and notify developer of project analysis fee.

III. Project Analysis Authorization

Project Analysis Authorization from the Board of Commissioners directs staff to spend time and financial resources to continue to evaluate the application, and signals the MCDA's position that the application warrants further analysis. It does not signify a commitment on the part of the MCDA or the City to undertake any specific actions or to grant final approval to the application for public assistance. Staff will obtain Project Analysis Authorization through these actions:

1. Prepare report to Board of Commissioners in accordance with standard format, requesting Project Analysis Authorization and, if appropriate, designation of exclusive development rights, authorization to prepare redevelopment and tax increment finance plans, and establishment of Preliminary Planning Fund budget. The report must identify the project analysis fee and indicate that the Manager of Project Planning & Finance has reviewed and approved the report.
2. Receive Board direction.

If the Board authorizes staff to proceed with project analysis, the applicant must immediately pay the project analysis fee in accordance with the Public Financial Assistance Fee Policy.

IV. Economic Analysis and Risk Assessment

In accordance with the Minneapolis Tax Increment Policy, the City of Minneapolis Policy for the Limited Use of Tax Abatement to Fund Public Infrastructure Costs, or the City of Minneapolis Policy for the Use of Tax Abatement for Historic Properties, as applicable, staff will determine the appropriate level of analysis (standard vs. more extensive) to be conducted.

Standard analysis:

1. Identify public purpose and determine eligibility under state law.
2. Estimate development costs and public costs.
3. Complete "but for" analysis, if applicable.
4. Analyze fiscal and economic impacts, including impact on other publicly financed projects and impact on MCDA and City revenues and expenditures.
5. Identify appropriate form and amount of public financial assistance.
6. Evaluate financial health and past performance of developer.
7. Identify risks and plans for managing risks.
8. Identify costs of not undertaking the project.
9. Compare project with previously approved projects.
10. Formulate recommendation regarding fiscal disparities contribution.
11. Share results of analysis with City Finance Department.
12. Report to Development Finance Committee.

Extensive analysis (all of the above, plus):

13. Consult with City Finance Department to determine the nature and scope of additional analysis required (such as financial, market, local economic impact, etc.).
14. Conduct or contract for needed financial analysis.
15. Conduct or contract for any additional analysis identified in 13 above.

The results of the economic analysis and risk assessment are presented to the City Council and the Board of Commissioners at the time that action regarding approval of the proposed use of tax increment financing, tax abatement or the Leveraged Investment Fund is requested. The report to the City Council and the Board of Commissioners follows a standard format, is reviewed and approved by the Manager of Project Planning & Finance, and identifies any elements of the proposed project that are not in conformance with applicable policies (the Minneapolis Tax Increment Policy, the City of Minneapolis Policy for the Limited Use of Tax Abatement to Fund Public Infrastructure Costs, or the City of Minneapolis Policy for the Use of Tax Abatement for Historic Properties).